

### **CONDITION 3**

#### **OVERHEAD LINES**

- 3.1 Without prejudice to Condition 1.1, the Licensee shall take steps to ensure that, wherever practicable, taking into account the need to provide telecommunication services at the lowest reasonable cost, new lines (other than overhead Service Lines flown from poles) installed after the date on which this Licence enters into force are installed underground.
- 3.2 The Licensee shall consider carefully a request by any person that any of its existing lines be resited underground. If the Licensee is satisfied that the person making the request will pay the costs of placing the lines underground, the Licensee shall, wherever it is reasonable and practicable, so place the line. In other cases, except where the request is frivolous, the Licensee shall be obliged within 28 days of receiving it, to give notice of its decision whether or not to accede to the request in writing to the person making the request giving, where it decides to refuse, reasons.
- 3.3 Where telecommunication services are to be provided to a person occupying or proposing to occupy a new development the Licensee shall consider in conjunction with those responsible for the development and any other statutory undertaker providing or proposing to provide a service to persons occupying that development whether lines can be installed underground on a shared cost basis.

## CONDITION 4

### NATIONAL PARKS ETC.

4.1 Subject to paragraph 4.2, and except in the case of emergency works, before installing overhead telecommunication apparatus in any National Park, Area of Outstanding Natural Beauty, National Scenic Area, or the area administered by the Broads Authority, and before installing any apparatus in any Limestone Pavement Area, Site of Special Scientific Interest or Area of Scientific Interest, the Licensee shall give the Relevant Authority written notice of its intention to do so describing the proposed works.

4.2 Where:

- (a) the Licensee has given notice of proposed works in accordance with paragraph 4.1; and
- (b) the Relevant Authority has, within 28 days of the giving of the notice, made written representations to the Licensee about the proposed works;

the Licensee shall consider those representations and if it considers that, notwithstanding those representations, the proposed works which are the subject of that notice should be carried out in the form proposed in that notice or with modifications to take account of those representations it shall, before carrying out the proposed works, give written notice to the Relevant Authority of its intention to carry out the proposed works and of the modifications if any of the proposed works and the reasons for its decision to do so.

4.3 The Licensee shall also comply with any direction given to it in writing by the Secretary of State relating to giving notice to and considering representations made by any other authority exercising statutory functions in relation to any of the areas specified in paragraph 4.1 or such other environmentally sensitive areas as may be specified in the direction.

4.4 The Licensee shall not be required to give notice pursuant to paragraph 4.1 where the apparatus installed consists solely of:

- (a) an overhead Service Line affixed to and lying on the surface of the exterior structure of a building or flown from a pole provided that the line is of a not noticeably larger diameter than that of the majority of such overhead Service Lines in the same locality; or
- (b) a replacement pole installed in a position not substantially different from the pole it replaces.

4.5 In this Condition:

- (a) in relation to England and Wales and Scotland:

- (i) "National Park" and "Area of Outstanding Natural Beauty" respectively mean any area notified as such under section 5 or section 87 of the National Parks and Access to the Countryside Act 1949 and the Relevant Authority in relation thereto shall be the Planning Authority;
  - (ii) "Site of Special Scientific Interest" means an area designated as such under section 28 of the Wildlife and Countryside Act 1981 or an area in respect of which the Secretary of State has made an order under section 29 of that Act; and in both cases the Nature Conservancy Council established under the Nature Conservancy Council Act 1973 shall be the Relevant Authority in respect of any such area;
  - (iii) "Limestone Pavement Area" means an area designated by the Secretary of State or relevant authority under section 34 of the Wildlife and Countryside Act 1981; and the Relevant Authority in England and Wales is the Planning Authority and in Scotland is the Planning Authority exercising district planning functions; and
  - (iv) "National Scenic Area" means any area in Scotland designated as such under the Town and Country (Planning) Scotland Act 1972; and the Relevant Authority in relation thereto is the Planning Authority;
- (b) in relation to Northern Ireland:
- (i) "Area of Outstanding Natural Beauty" means any area designated as such under section 10 of the Amenity Lands Act (Northern Ireland) 1965; and the Relevant Authority in relation thereto shall be the Department of the Environment for Northern Ireland; and
  - (ii) "Area of Scientific Interest" means an area designated under section 15 of the Amenity Lands Act (Northern Ireland) 1965; and the Relevant Authority in relation thereto means the Department of the Environment for Northern Ireland.

## **CONDITION 5**

### **NATIONAL TRUST AND NATIONAL TRUST FOR SCOTLAND**

- 5.1 Except in the case of emergency works, before installing any telecommunication apparatus for the purpose of providing a service to the occupier of any land which the National Trust or the National Trust for Scotland has notified the Licensee that it owns, or holds any interest in, the Licensee shall give the relevant regional office of whichever of those bodies is concerned written notice of its intention to do so, describing the proposed works; and shall consider any written representations made within 28 days of the giving of such notice to it by either of those bodies.

## **CONDITION 6**

### **MAINTAINABLE HIGHWAYS**

- 6.1 For the avoidance of doubt it is hereby declared that paragraph 6.2 applies in addition to any obligations of the Licensee under the Public Utilities Street Works Act 1950 and any order made under section 11 (1) of the Act.
- 6.2 Except in the case of emergency works, before executing any works involving the breaking up of a maintainable highway in connection with the installation of any telecommunication apparatus in that highway the Licensee shall give to the Highway Authority written notice of its intention to do so describing the proposed works and shall consider any written representations made by that Highway Authority within 8 days of the giving of the notice by the Licensee in the case of an overhead line or any underground Service Line and within 29 days of the giving of the notice by the Licensee in other cases.

## **CONDITION 7**

### **PLACING OF UNDERGROUND APPARATUS IN DUCTS**

- 7.1 All lines installed underground after the date on which this Licence enters into force, in a part of a maintainable highway which is paved, shall, whenever practicable, be installed in Ducts.

## **CONDITION 8**

### **HEIGHT OF OVERHEAD LINES**

- 8.1 Lines installed over the carriageway of a maintainable highway shall be placed at a height of not less than 5.5 metres above the carriageway (or in the case of a designated high load route not less than 6.5 metres), except where the Highway Authority has previously otherwise agreed in writing.

## **CONDITION 9**

### **MAINTENANCE AND THE SAFETY OF APPARATUS**

- 9.1       The Licensee shall from time to time inspect its telecommunication apparatus which is not inside a building and which is on or above the surface of the ground with a view to ensuring that it will not cause harm to other persons or property; and the Licensee shall notify the Director of its arrangements for inspecting such apparatus.
  
- 9.2       In addition to carrying out inspections of its own apparatus on or above the surface of the ground the Licensee shall take such steps as are appropriate in the circumstances to investigate any report (other than a frivolous one) of any of its apparatus (wherever situated) being in a dangerous state and to remove any danger.



## **CONDITION 10**

### **ARRANGEMENTS WITH ELECTRICITY BOARDS**

- 10.1 Subject to any modifications agreed between the Licensee and the Relevant Board, the Licensee shall:
- (a) where it installs and keeps installed telecommunication apparatus in proximity to previously installed plant which is the responsibility of a relevant Board, continue to observe the terms of the 1928 Agreement between the Postmaster General and the Electricity Commissioners and subsequent agreements or arrangements concerning the engineering principles to be adopted and the allocation and apportionment of costs which arise; and
  - (b) where a Relevant Board gives notice that it proposes to install its plant in proximity to any of the Licensee's installed apparatus, continue to observe the relevant terms of the agreements and arrangements referred to in sub-paragraph (a) above.
- 10.2 In this Condition "Relevant Board" means an Electricity Board as defined in section 26 of the Energy Act 1983, or the Northern Ireland Electricity Service.

## **CONDITION 11**

### **INSTRUCTIONS FOR THE INSTALLATION OF APPARATUS**

- 11.1 Without prejudice to any of its statutory obligations the Licensee shall give instructions to its employees and agents with a view to securing that:
- (a) where apparatus is to be installed underground in a maintainable highway, the normal practice will be to place it in the verge or footway if any rather than the carriageway;
  - (b) provision is made for any new ducts installed after the date on which this Licence comes into effect to contain sufficient spare capacity to meet demand which is reasonably foreseeable by the Licensee for telecommunication services provided by it;
  - (c) attention is drawn to the need wherever practicable to place lines at minimum depths of cover appropriate for the locality (varying between 350mm and 600mm in footways and between 600mm and 900mm in the carriageway);
  - (d) regular liaison is maintained with Highway Authorities with a view to ensuring that, as far as possible, telecommunication code works which entail breaking up the surface of the highway are carried out in advance of scheduled resurfacing works or together with other schemes affecting the highway;
  - (e) regular liaison is maintained with statutory undertakers and other operators to whom the telecommunications code is applied with a view to reducing the disruption of the services provided by those persons;
  - (f) where apparatus is installed in a manner which involves the breaking up or opening of the highway and the licensee is to do the reinstatement and making good at upper levels under section 7 (2) (c) of the Public Utilities Street Works Act 1950, all reasonable steps are taken to reinstate the surface of the highway in its previous form, unless the Highway Authority agrees otherwise;
  - (g) with a view to reducing to a minimum the need for the erection of new poles or the construction of new Ducts, before installing any such poles or Ducts steps will be taken to investigate the possibility of using existing poles, Ducts or other conduits;
  - (h) attention is drawn to the desirability of:
    - (i) installing the minimum practicable number of poles and other items of apparatus, allowing for estimated growth in demand for telecommunication services; and

(ii) protecting the visual amenity of properties in proximity to which poles or other items of apparatus are installed; and

(i) lines and other items of apparatus are placed so that they do not present safety hazards.

11.2 The Licensee shall within three months of the date on which this Licence enters into force furnish details to the Director of the steps taken to implement paragraph 11.1.

## CONDITION 12

### RECORDS OF APPARATUS

- 12.1 The Licensee shall keep records of any of its apparatus installed underground after the date on which this Licence enters into force which can be made available in the form of route plans drawn on an Ordnance Survey map background of one of the following scales (1:625, 1:1,250, 1:2,500, 1:10,000) according to the density of development in the area concerned.
- 12.2 The Licensee shall provide by means of a telecommunication system free of charge, to any Highway Authority or other person who is intending to undertake works in the vicinity of any telecommunication apparatus it has installed underground, a service furnishing information about the location of that apparatus and shall whenever practicable:
- (a) respond to bona fide enquiries; and
  - (b) where necessary confirm its advice in diagrammatic form and make trained staff available to give on-site advice about such apparatus so installed;
- and shall also respond to any other reasonable request from a Highway Authority for information about the location of the Licensee's apparatus installed underground.
- 12.3 The Licensee shall co-operate in any joint projects involving persons who are statutory undertakers under any enactment or to whom the powers of the telecommunications code have been applied which have as their purpose the recording and making available of information about underground apparatus, unless the Director agrees that it would be inappropriate having regard to its existing practice in the area concerned for it to do so.

## **CONDITION 13**

### **EMERGENCY WORKS**

- 13.1 Where the Licensee executes emergency works which would otherwise require prior notice under Condition 1, 2, 4, 5 or 6, it shall, as soon as practicable after the commencement of the works, give to any body to whom notice is required to be given under that Condition written notice describing the works.

## **CONDITION 14**

### **PUBLIC EVENTS AND CONSTRUCTION SITES**

- 14.1 Where the Licensee is to provide telecommunication services for a limited period at the site of a public event or a construction site, it may install overhead lines and associated poles to provide that service notwithstanding Conditions 1, 2, 4, and 5, provided that the lines or poles are removed at the end of the event or after the work at the construction site is complete.

## **CONDITION 15**

### **EMERGENCY ORGANISATIONS**

- 15.1 Where the Licensee is to provide any telecommunication service for a limited period to an Emergency Organisation in an Emergency it may, notwithstanding Conditions 1, 2, 4, 5, 6 and 8, install overhead lines and associated poles for the purposes of providing such services as are made necessary by the Emergency provided that any such line or pole is removed after such services cease to be required.
- 15.2 In this Condition "Emergency Organisation" and "Emergency" have the same meaning as in Schedule 1 to this Licence.

## **CONDITION 16**

### **PUBLIC INSPECTION OF CODE RELATED LICENCE CONDITIONS**

- 16.1 The Licensee shall place a copy of this Schedule and of every direction given to the Licensee under section 10 (4) of the Act in a publicly accessible part of every Major Office of the Licensee in such a manner and in such a place that it is readily available for inspection free of charge by the general public during such hours as the Secretary of State may prescribe under section 19 (4) of the Act for the register of licences and orders to be open for public inspection.
- 16.2 "Major Office" has the same meaning as in Condition 16.4 of Schedule 1 to this Licence.



## ANNEX A

### THE APPLICABLE SYSTEMS

- 1       The Applicable Systems are telecommunication systems of every description within the United Kingdom provided that a system ("the System") is an Applicable System only to the extent that it satisfies each of the following conditions:
  - (a)   the System is one by means of which Messages are conveyed or are to be conveyed:
    - (i)   from one Network Termination Point to another such Point;
    - (ii)   from a Network Termination Point to another place which is neither a Network Termination Point nor a Call Office or from such a place to such a Point;
    - (iii)   between a place which is neither a Network Termination Point nor a Call Office and another such place where their conveyance is not by way of provision of a service to another person; or
    - (iv)   between a Call Office and any other place;but in any case not beyond a Network Termination Point;
  - (b)   none of the apparatus comprised in the System is Relevant Terminal Apparatus installed on premises occupied by a person to whom there are provided telecommunication services by means of the System;
  - (c)   the System is not, insofar as it is within the Hull Area, connected to any Network Termination Point other than one in an item of Network Connecting Apparatus which Point exists for the purpose of connecting the System to an aircraft, a seagoing vessel or hovercraft or to another public telecommunication system run by either the Kingston upon Hull City Council or any other person running a public telecommunication system within the Hull Area; and
  - (d)   the System is not a telecommunication system which conveys messages by means of wireless telegraphy, except where every Station for Wireless Telegraphy and every item of Wireless Telegraphy Apparatus comprised within the system constitutes a permanent or temporary Fixed Wireless Telegraphy Station.
- 2       In this Annex:
  - (a)   "Approved Apparatus" means in relation to any system apparatus approved under section 22 of the Act for connection to that system;

- (b) "Call Office" means telecommunication apparatus not supplied by the Licensee to any particular person but made available for use by the public or a class of the public;
- (c) "Fixed Wireless Telegraphy Station" means any Station for Wireless Telegraphy or Wireless Telegraphy Apparatus which is not used while in motion and which is operated for the purpose of being connected by wireless telegraphy solely to:
  - (i) a Station for Wireless Telegraphy or Wireless Telegraphy Apparatus comprised in the System or any other system which but for this paragraph would be an Applicable System and which is not used while in motion;
  - (ii) other Wireless Telegraphy Apparatus or another Station for Wireless Telegraphy which is itself neither designed nor adapted for use while in motion;
  - (iii) earth orbiting apparatus or apparatus outside the United Kingdom; or
  - (iv) apparatus on an aircraft or seagoing vessel or hovercraft;
- (d) "the Hull Area" means the area within which the Kingston upon Hull City Council is authorised to run telecommunication systems under a Licence coming into force on the date on which this Licence enters into force;
- (e) "Licence" means a licence granted or having effect as if so granted under section 7 of the Act;
- (f) "Message" means anything falling within paragraphs (a) to (d) of section 4(1) of the Act;
- (g) "Relevant Terminal Apparatus" means:
  - (i) "Terminal Apparatus" that is to say any telecommunication apparatus installed on Served Premises by means of which Messages are initially transmitted or ultimately received except a Call Office; and
  - (ii) any other telecommunication apparatus directly connected to Terminal Apparatus (including apparatus which is Terminal Apparatus by virtue of this sub-paragraph) which would, if it were run with such Terminal Apparatus and any other apparatus by means of which it is so connected, constitute a system authorised to be run by the person running that Terminal Apparatus.

- (h) "Network Connecting Apparatus" means telecommunication apparatus comprised in the System which is not Network Termination and Testing Apparatus and is connected to another telecommunication system;
- (i) "Network Termination Point" means any point:
  - (i) within an item of Network Connecting Apparatus at which energy of any of the forms specified in section 4 (1) of the Act is conveyed directly to or from apparatus comprised in a telecommunication system other than the one in which that Network Connecting Apparatus is comprised; or
  - (ii) within an item of Network Termination and Testing Apparatus at which such energy is conveyed directly to any Relevant Terminal Apparatus;
- (j) "Network Termination and Testing Apparatus" means an item of telecommunication apparatus comprised in the System installed in a fixed position on Served Premises which enables:
  - (i) Approved Apparatus to be readily connected to, and disconnected from, the System; and
  - (ii) the conveyance of Messages between such Apparatus and the System; and
  - (iii) the due functioning of the System to be tested;

but the only other functions of which, if any, are:

  - (aa) to supply energy between such Apparatus and the System;
  - (bb) to protect the safety or security of operation of the System; or
  - (cc) to enable other operations exclusively related to the running of any Applicable System to be performed or the due functioning of any system to which the System is or is to be connected to be tested (separately or together with the System);
- (k) "seagoing vessel" includes any floating structure for the exploration for, or exploitation of, oil or gas, or similar structure, while it is not maintained on a station;
- (l) "Served Premises" means a single set of premises in single occupation where apparatus has been installed for the purpose of the provision of telecommunication services by means of the System at those premises;
- (m) "Subsidiary" has the same meaning as in section 154 of the Companies Act 1948;

- (n) "United Kingdom" includes any area to which the provisions of the Act apply by virtue of section 107; and
- (o) "Station for Wireless Telegraphy" and "Wireless Telegraphy Apparatus" have the same meaning as in the Wireless Telegraphy Acts 1949 to 1967.

3 In determining whether any telecommunication system is an Applicable System for the purposes of this Annex:

- (i) any point at which any two systems run by the Licensee neither of which is a system authorised to be run and which is run under another Licence are connected shall be deemed not to be a Network Termination Point;
- (ii) in determining whether Messages are conveyed by way of provision of a service all members of the Licensee's Group (that is to say the Licensee and its Subsidiaries taken together) shall be treated as one person; and
- (iii) apparatus shall be deemed to remain installed in a fixed position notwithstanding that it has been moved without authority.

4 The Interpretation Act 1978 shall apply for the purposes of interpreting this Annex as if it were an Act of Parliament.

5 Any word or expression used in this Annex shall unless the context otherwise requires have the same meaning as it has in the Act.